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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/044,858      | 11/13/2001  | Steven Ausnit        | 769-300             | 9832             |

29540 7590 08/13/2003

PITNEY, HARDIN, KIPP & SZUCH LLP  
685 THIRD AVENUE  
NEW YORK, NY 10017-4024

EXAMINER

SIPOS, JOHN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3721

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

10/044,858

Applicant(s)

AUSNIT, STEVEN *on*

Examin r

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

**Claims 8** is rejected under 35 U.S.C. ' 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See previous Office actions.

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***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

**Claims 12** is rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Sanborn (4,437,293 - cited by applicant) in view of Van Erden (6,212,857) or Strand (6,526,726) or Ausnit (6,131,369). The Sanborn patent discloses an apparatus and method for forming reclosable packages. It comprises of means for advancing a base film (35), means for loading the base film with two longitudinal rows of products (10), means for applying two zippers onto the base film (1), means for applying a cover film over the base film and the zippers (11), means for joining the zippers to the two films (30), means for transversely sealing the two films together and for cutting the sealed films transversely and longitudinally (38). The patent to Sanborn does not seal only a portion of the width of the zipper flange to the film. The patents to Van Erden, Strand and Ausnit show methods of forming reclosable packages wherein zippers with only a portion of the zipper flange are sealed to bag film leaving a portion of the flange unsealed to accommodate the slider (see Figure 6 of Van Erden; Figures 3 and 4 of Strand; Figures 4 and 5 of Ausnit). It would have been obvious to one skilled in the art to seal only a portion of the zipper flange of Sanborn as shown by any of the secondary references to accommodate a slider.

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**Claims 1-20** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Sanborn (4,437,293) in view of Malin (6,138,436). As set forth above the Sanborn process is substantially equivalent to the one recited in the claims. The only difference between the claimed process and Sanborn is the forming of bags rather than of packages/film with pockets and the longitudinal sealing of the films together between the zippers to enclose the zippers. The patent to Malin shows a horizontal form-fill-seal bag forming operation which forma a single row of bags by feeding a zipper (32) onto a film, placing products on the film at 30, folding the film over the zipper and the product ((32), sealing the zipper to the top and bottom of the film (84,86), sealing the top and bottom of the film to each other (68,70) to enclose the zipper (see Figure 6), and transversely sealing and cutting the bags between the products (65/67). Although the claims do not specifically exclude films with pockets, it would have been obvious to one of ordinary skilled in the art to use pocketless film in the process of Sanborn and form bags as shown by Malin. Furthermore, since Sanborn discloses an embodiment with dual zippers that are not joined together (see column 4, lines 59-69), it would have been obvious to one of ordinary skilled in the art to longitudinally seal the top and bottom films together between the two zippers to enclose the zippers as taught by Malin. The patent to Sanborn does not seal only a portion of the width of the zipper flange to the film. The patents to Van Erden, Strand and Ausnit show methods of forming reclosable packages wherein zippers with only a portion of the zipper flange are sealed to bag film leaving a portion of the flange unsealed to accommodate the slider (see Figure 6 of Van Erden; Figures 3 and 4 of Strand; Figures 4 and 5 of Ausnit). It would have been obvious to one skilled in the art to seal only a portion of the zipper flange of Sanborn as shown by any of the secondary references to accommodate a slider. The use of peel seals (claim 3,10),

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line of weakness (claim 4,18), sliders and slider stops (claim 6,7,13,14) and guides (claims 17 and 19) are well known in the bag making art and their use in the Sanborn operation would have been obvious for their inherent advantages. Regarding the guides of claims 17 and 19, note guide 92 of Malin.

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***ADDITIONAL REFERENCES CITED***

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure. These references show bag forming methods with only a portion of the width of the zipper flange sealed to the film.

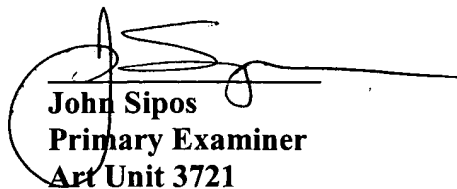
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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.

  
**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**